

I hereby certify that on \_\_\_\_\_, \_\_\_\_\_, I served upon: \_\_\_\_\_

BY: \_\_\_\_\_

a true and certified copy of the Plaintiff's Claim with all endorsements thereon.

By: \_\_\_\_\_

OFFICER

#### FEES

Service & Return	\$ _____
Copy	\$ _____
Mileage	\$ _____
Total	\$ _____

## SMALL CLAIMS COURT

The Small Claims Court provides a method of settling legal disputes involving \$2,700 or less. Court procedure is informal and without a jury. You cannot be represented by an attorney in Small Claims Court, however, you are allowed to seek an attorney's advice about your case.

The person making the claim is known as the plaintiff. The other party is known as the defendant. Small Claims cases can be filed in the county where the defendant resides or is doing business or in the county where the legal dispute occurred. Except for merchants claiming a loss due to shoplifting, no one may file more than two complaints in a calendar week, nor more than ten complaints in a calendar year. The plaintiff fills out the claim form and signs it in the presence of a court clerk or notary. The clerk sets a date for trial, and arranges for notice to the defendant. The notice may be delivered by the sheriff or constable or sent by certified mail. The plaintiff decides how the notice will be served. The plaintiff pays in advance a filing fee totaling \$23.00, and the cost of serving the notice on the defendant. If the plaintiff wins, these costs are added to the judgment which the defendant must pay.

The plaintiff and defendant must appear in the court at the time shown on the notice. If the defendant does not appear, a judgment can be entered against him or her. If the defendant is not able to appear at the time set for trial, he or she should contact the court clerk before that time and explain why. The court may continue the trial to a later date if there is good reason. Mere inconvenience is never considered sufficient. The defendant has the right to file a counterclaim or setoff, but this must be done at least two days prior to the time of trial. In a counterclaim, the defendant says that the plaintiff is at fault rather than the defendant. In a setoff, the defendant says he or she may owe something, but that the plaintiff also owes something. If the amount of the counterclaim or setoff exceeds \$2,700 the case will be transferred to regular civil docket and handled with a regular civil lawsuit. The defendant may request that the case be transferred out of the Small Claims Court to the regular civil docket by filing and serving a notice of transfer at least two days prior to the time the case is set for hearing. A transfer fee of \$19.00 will be assessed for either the transfer to the regular docket or a counterclaim in excess of \$2,700.

At the trial, both the plaintiff and the defendant may have witnesses to support their position. They can have other evidence produced in court, by a court order, if the other party refuses to bring it to court. Both may also present other evidence, such as contracts or cancelled checks. The responsibility for proving the case, and proving the amount of money or property owed, is that of the party making the claim.

If either party is not satisfied with the judge's decision, they may appeal to the district court where the case will be tried again. The formal rules of evidence and procedure will be used and the parties may have lawyers. Notice of appeal must be given within 30 days from the date of the judge's decision. When you file the notice of appeal you will be required to post an appeal bond in the amount of \$50.00. In addition, you will be required to pay the district court filing fee. If an appeal is filed and you desire to stop execution of the judgment against you, a supersedeas bond must be filed in the amount of the judgment plus costs.

It is the duty of the party who wins the case to collect the judgment--the property or money which the judge has granted to him or her. If the losing party does not voluntarily pay or agree to pay the judgment awarded, the party winning the lawsuit will have to start collection procedures. Use of an attorney is permitted in these collection procedures.

**A pamphlet explaining Small Claims Court in more detail is available from the clerk of the county court.**